



STATE OF ARIZONA
ARIZONA STATE LIQUOR BOARD
800 WEST WASHINGTON, 5TH FLOOR
PHOENIX, AZ 85007
PHONE: (602) 542-9789 FAX: 602-542-5707
Website: www.azliquor.gov

DOUGLAS A. DUCEY
Governor

MICHAEL J. TROYAN
Board Chair

JOHN COCCA
Director

Arizona State Liquor Board Hearing Minutes
January 11, 2018

Members Present: Michael J. Troyan – Chair, Troy L. Campbell – Vice Chair, Michael N. Widener, and Jeffrey K. Oravits

Members Absent: None

Counsel Present: Michael Raine, Assistant Attorney General
John R. Tellier, Licensing & Enforcement Section Chief Counsel

Staff Present: Denise Bale, Board Administrator

A. Call to Order

The hearing of the Arizona State Liquor Board was called to order on January 11, 2018, at 10:03 a.m. with Mr. Troyan presiding.

Roll Call

All members were present.

B. 10:00 a.m. Agenda: Review, consideration and action

The Board proceeded to agenda item number 3.

1. Restaurant Liquor License No. 1207B073 – Original Application

Jeffrey Craig Miller, Agent
First Draft LLC
First Draft
300 W. Camelback Road #1
Phoenix, AZ 85013

This matter was continued from the December 7, 2017, meeting. This matter is set for hearing because of a Department protest. Subsequent to this matter being scheduled for hearing, an application withdrawal was filed with the Board. Mr. Widener indicated at the December meeting that he had a conflict with this application and that he would recuse himself from the hearing. Pursuant to A.R.S. § 4-111(D), the chairman has designated the following members to sit as the panel for this matter: Michael Troyan, Troy Campbell and Jeffrey Oravits. The Agent, Jeffrey Craig Miller, appeared at the hearing and was not represented by counsel. Assistant Attorney General Michael Raine appeared on behalf of the Department of Liquor Licenses and Control (Department). Licensing & Enforcement Section Chief Counsel John R. Tellier was available to provide independent legal advice to the Board. Mr. Raine stated the Department did not object to the application withdrawal.

Motion to accept application withdrawal -	Oravits
Seconded -	Campbell
Yay -	Oravits, Campbell, Troyan
Nay -	None
Abstained -	Widener
Disposition -	Application withdrawal accepted

2. Beer and Wine Store Liquor License No. 10076888 – Original Application

Adam Mahmoud Salem, Agent
Dodge City Market LLC
Dodge City Market
705 E. Main Street
Avondale, AZ 85323

This matter is set for hearing because of a Department protest and a recommendation for disapproval by the City of Avondale. Subsequent to this matter begin scheduled for hearing, an application withdrawal was filed with the Department. The Board will first consider the request to withdraw the application. If necessary, a hearing will be held to consider the Department protest and local governing body recommendation. The Agent, Adam Mahmoud Salem, did not appear at the hearing and was not represented by counsel. Assistant Attorney General Michael Raine appeared on behalf of the Department. Licensing & Enforcement Section Chief Counsel John R. Tellier was available to provide independent legal advice to the Board. Mr. Raine stated the Department did not object to the application withdrawal.

Motion to accept application withdrawal -	Campbell
Seconded -	Oravits
Yay -	Campbell, Oravits, Troyan, Widener
Nay -	None
Abstained -	None
Disposition -	Application withdrawal accepted

3. Bar Liquor License No. 06070397 – Person and Location Transfer Application

From:	To:
Theresa June Morse, Agent	Patrick Henry Zanzucchi, Agent
Diesel 01 LLC	PHZ-MSC LLC
Pink Rhino Cabaret	Pink Rhino Cabaret
3613 E. Van Buren Street	3613 E. Van Buren Street
Phoenix, AZ 85008	Phoenix, AZ 85008

This matter is set for hearing because of a Department protest based on the applicant's past and current license history and a recommendation for disapproval by the City of Phoenix. The Applicant, PHZ-MSC LLC, appeared at the hearing and was represented by counsel, Francis J. Slavin and Jessica L. Dorvinen. Jessica J. Breedlove appeared on behalf of the City of Phoenix. Assistant Attorney General Michael Raine appeared on behalf of the Department. Licensing & Enforcement Section Chief Counsel John R. Tellier was present and provided independent legal advice to the Board.

The City of Phoenix (City) through its counsel, Jessica J. Breedlove, filed its Notice of Filing of Discovery Materials. The Applicant, PHZ-MSC LLC, through its counsel, Francis J. Slavin and Jessica L. Dorvinen, filed its List of Exhibits and its Motion to Exclude City's Exhibits, to Continue Hearing and for Additional Time. The City filed its Response to Applicant's Motion to Exclude City's Exhibits, to Continue Hearing and for Additional Time. Applicant filed Rebuttal Materials and a Supplemental Argument for its Motion to Continue.

Mr. Slavin addressed the Applicant's motion to continue. The Department's Compliance Unit notified the Applicant of potential violations reported by the Investigation Division. Mr. Slavin argued that the Board does not have jurisdiction as long as there are outstanding compliance issues against the Applicant. The continuance is to allow time for the Applicant to resolve compliance issues with the Department. Mr. Raine stated that the Department objects to a continuance on the legal basis that was just raised, but it does not object to a continuance generally. Ms. Breedlove

stated the City's original objection to the motion to continue was on the basis that counsel for the Applicant would not be prepared to proceed forward at today's hearing. Ms. Breedlove explained if now the basis for the continuance is to wait until the other pending issues are concluded, the City does not object to the continuance.

Mr. Widener disclosed that he represented Mark S. Cumming, who is a member of the Applicant, from 2002 to 2003 related to a health care business that Mr. Cumming was interested in acquiring. The representation was concluded in 2003. Mr. Widener does not believe that his representation has any impact on his ability to sit as a Board member in today's hearing and he is not inclined to recuse himself unless there are objections by the representatives of the parties. There were no objections.

Mr. Widener made a motion to grant the continuance for an indefinite period of time until the administrative process is completed and one party or all of the parties agree to bring the matter before the Board.

Motion to grant the continuance -	Widener
Seconded -	Oravits
Yay -	Widener, Oravits, Troyan, Campbell
Nay -	None
Abstained -	None
Disposition -	Continuance granted

4. Bar Liquor License No. 06100244 – Request for Rehearing

From:	To:
Michael Conrad Kramkowski, Agent	Michael Conrad Kramkowski, Agent
Krism LLC	Krism LLC
Bottoms Up	The Blind Tiger Restaurant & Bar
3710 N. Oracle Road	628 N. 4 th Avenue
Tucson, AZ 85705	Tucson, AZ 85705

This matter is to consider the Applicant's motion to dismiss the Protestor's request for rehearing. Subsequent to this matter being scheduled for hearing, the Applicant filed a motion to withdraw its motion to dismiss and to proceed with a hearing on the Protestor's original request for rehearing. The Applicant, Michael Conrad Kramkowski and Krism LLC, appeared at the hearing and was represented by counsel, Thomas R. Aguilera. Public protestor Suzanne Schafer appeared at the hearing and was not represented by counsel.

Motion to accept the Applicant's motion to withdraw its motion to dismiss and to proceed with a hearing on the merits of the request for rehearing -	Campbell
Seconded -	Widener
Yay -	Campbell, Widener, Troyan, Oravits
Nay -	None
Abstained -	None
Disposition -	Withdrawal of motion accepted

Motion to convene in executive session for the purpose of receiving legal advice -	Campbell
Seconded -	Troyan
Yay -	Campbell, Troyan, Widener, Oravits
Nay -	None
Abstained -	None
Disposition -	Convene in executive session

The Board convened in executive session at 10:35 a.m. and reconvened in open session at 11:00 a.m.

Ms. Schafer was sworn and presented a statement of her position. Ms. Schafer requested to amend her original request for rehearing by attaching a written statement from the president of the West University Neighborhood Association. Mr. Aguilera objected to the amendment. Mr. Aguilera argued the points raised by Ms. Schafer. Mr. Kramkowski was sworn and testified about future plans for an extension of premises. There were questions from the Board.

Mr. Widener made a motion to deny the request for rehearing based on none of the seven factors of R19-1-703(C)¹ are satisfied for the Board to grant a rehearing.

Motion to deny request for rehearing -	Widener
Seconded -	Campbell
Yay -	Widener, Campbell, Oravits, Troyan
Nay -	None
Abstained -	None
Disposition -	Request for rehearing denied

C. Minutes: Review, Consideration and Action

Motion to approve the minutes of	
November 2, 2017 -	Campbell
Seconded -	Widener
Yay -	Campbell, Widener, Troyan, Oravits
Nay -	None
Abstained -	None
Disposition -	November 2, 2017, minutes approved

Minutes of December 7, 2017, will be considered at the next meeting.

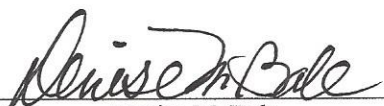
D. Reports on Current Events, Matters of Board Procedure, Requests and Items for Future Agenda

The Board will not meet in February. The next scheduled meeting is March 1, 2018. Mr. Widener requested future agenda items for training on procedural issues that have been challenged before the Board. Mr. Raine stated that in matters where he is representing the Department before the Board, he will seek out colleagues who may be willing to provide further training or receive specific questions that Board members or the Board together may have regarding procedural issues. Mr. Raine suggested training begin at the March meeting. Mr. Raine also mentioned the Arizona Agency Handbook that is published by the Attorney General's Office and is available online.

E. Call to the Public

Thomas R. Aguilera, Aguilera Law Group, P.C., addressed the Board.

The Board adjourned at 11:58 a.m.


Denise M. Bale
Administrator of the
Arizona State Liquor Board


Date

¹ **R19-1-703. Rehearing or Review of a Decision**

- C. The Board may grant a rehearing or review for any of the following reasons materially affecting a party's rights:
1. Irregularity in the proceedings or any order or abuse of discretion that deprived the moving party of a fair hearing;
 2. Misconduct of the Director or Board, Department staff, or an administrative law judge;
 3. Accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Excessive or insufficient penalty;
 6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing or during the progress of the proceedings; and
 7. The findings of fact or decision is not justified by the evidence or is contrary to law.